

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE *EX PARTE* APPLICATION OF  
TIBERIUS GROUP AG FOR AN ORDER  
TO OBTAIN DISCOVERY FOR USE IN A  
FOREIGN PROCEEDING

Misc. Action No. 1:19-MC-00467

**NOTICE OF MOTION TO QUASH**

**ORAL ARGUMENT REQUESTED**

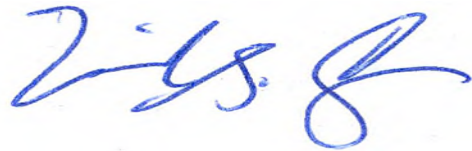
PLEASE TAKE NOTICE that upon the declaration of Murtala Ahmad Laushi dated November 18, 2019, the declaration of Patrick Ikwueto dated November 18, 2019, the declaration of Michael S. Cryan dated November 18, 2019 (“Cryan Decl.”), the exhibits annexed thereto, the Subpoenas annexed as Exhibit 1 to the Cryan Decl., the accompanying memorandum of law, and the prior proceedings had herein, the undersigned counsel for Malcomines Ltd., Malcomines GmbH, S&M Pan African Mines & Logistics Ltd., Michel Babic, Murtala Laushi, and Malcomines Minor Metals Ltd. (collectively, the “Objectors”) will and hereby does move this Court, the Honorable Vernon Broderick, for an order pursuant to 28 U.S.C. § 1782, Fed. R. Civ. P. 45(d)(2)(B), (d)(3)(A)(iii), (d)(3)(A)(iv), and (d)(3)(B)(i), Fed. R. Civ. P. 26 (b)(2)(C)(i), (b)(2)(C)(ii), (b)(2)(C)(iii), and (c)(1) quashing the Subpoenas, or modifying the Subpoenas, or granting a protective order, and for such other, further and different relief as the Court deems just.

The bases for this motion are that the Subpoenas are an improper attempt to circumvent foreign proof-gathering restrictions, and constitute unduly intrusive demands for broad commercial and financial information, in violation of 28 U.S.C. § 1782. The Subpoenas should be quashed or modified to prevent the disclosure of confidential trade secret commercial information and to protect nonparties. In the alternative, good cause exists for a protective order

to protect the Objectors from annoyance, embarrassment, oppression, or undue burden or expense, including forbidding the disclosure or discovery; specifying terms for the disclosure or discovery; prescribing a discovery method other than the one selected by the party seeking discovery; forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters; and requiring that trade secret or other confidential commercial information not be revealed.

Dated: New York, New York  
November 18, 2019

ARENT FOX LLP



By: \_\_\_\_\_

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